

NORTHAMPTON CABLE TELEVISION ACCESS AGREEMENT

between the

CITY OF NORTHAMPTON

and

NORTHAMPTON COMMUNITY TELEVISION, INC.

Effective Date: April 4, 2016

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NORTHAMPTON CABLE TELEVISION ACCESS AGREEMENT

This Agreement is made as of this 4th day of April 2016 by and between the CITY OF NORTHAMPTON ("City" or "Issuing Authority"), a municipal corporation, and NORTHAMPTON COMMUNITY TELEVISION, INC. ("NCTV"), a non-profit corporation duly established under the laws of the Commonwealth of Massachusetts.

WHEREAS, the City desires to provide support for the use of public, educational, and government ("hereinafter PEG") access channels, facilities, programming and services provided pursuant to federal law; and

WHEREAS, the City has granted a Cable Television Renewal License ("Comcast Renewal License") dated April 4, 2016 to Comcast of Massachusetts II, Inc. ("Comcast") to operate a cable television system in the City; and

WHEREAS, the cable franchise agreement between the City and Comcast stipulates that the City shall designate a non-profit access corporation to operate and administer PEG access facilities, programming, services and funding; and

WHEREAS, the Comcast Renewal License provides that certain channel capacity will be provided for PEG access programming and that certain payments shall be made for PEG access capital equipment, facilities, and operational support; and

WHEREAS, the Comcast Renewal License provides support for PEG access services through the dedication of a percentage of the operator's gross annual revenue as defined in the Comcast franchise agreement; and

WHEREAS, NCTV has been organized to operate for charitable and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1954, as amended (the "Code"), and to operate pursuant to the laws of the Commonwealth of Massachusetts, in part for the purpose of operating and managing public, educational, and governmental access channels made available to the corporation by any cable television system operating in the City of Northampton;

WHEREAS, the City has determined that to facilitate open, nondiscriminatory access to the Cable Television System and to serve the public interest in the development of public services and programming, an independent not-for-profit organization such as NCTV should provide those services and programming within the City; and

WHEREAS, NCTV shall obtain the funds necessary to carry out its purposes and objectives from the contributions as provided in the Renewal License and as set forth herewithin, and from any additional contributions by the public or others contributors;

NOW THEREFORE, in consideration of the mutual covenants herein contained and intending to be legally bound, the parties agree as follows:

I. PURPOSE

The purpose of this Agreement is to ensure the provision of Public, Educational and Government (PEG) access cable television and related services to Northampton residents and/or persons affiliated with Northampton institutions, businesses or agencies ("Authorized Users") who desire to use the Northampton Community Television, Inc. facilities and equipment for purposes of production and/or transmission and/or viewing of signals for non-commercial public, educational and/or governmental (PEG) access purposes.

II. DESIGNATION AND STATUS

- a) By and through this Agreement, the Mayor, as Issuing Authority, hereby designates NCTV as the PEG access provider and community media center for the City of Northampton in accordance with the Comcast Renewal License.
- b) NCTV shall maintain its tax-exempt status under the Internal Revenue Code as granted by the Internal Revenue Service prior to the date of this agreement.
- c) It is understood and agreed that NCTV is an independent contractor and that no other relationship of any kind exists between the City and NCTV. The relationship between the City and NCTV shall be that established by this Agreement, and none other.
- d) Although NCTV will be the City's designated independent contractor to provide PEG access services to Public Access Users at the Access Facilities, in no event will NCTV manage any other City-owned facility, supervise any City employee, or represent itself as the City, or as an agent of the City. Nor shall the City manage NCTV, or supervise any NCTV employee, or represent itself as controlling NCTV, except only through those rights granted under this Agreement, together with any rights the City may have under NCTV's Bylaws.

III. TERM OF AGREEMENT

The term of this Agreement shall commence upon April 4, 2016 and terminate on April 3, 2026 unless sooner terminated as provided herein.

IV. RESPONSIBILITIES AND OBLIGATIONS

During the term hereof: NCTV shall be responsible for and obliged to perform the following ("PEG Access Services"):

- a) Schedule, operate and maintain all PEG access channels pursuant to Article 6 of the Comcast Renewal License and in accordance with NCTV rules and regulations;
- b) Manage funds received pursuant to Section(s) 6.4 and 6.5 of the Comcast Renewal License and ensure that funding provided through the franchise fees levied on cable subscribers is used for appropriate PEG access purposes and in accordance with

the terms of this Agreement;

- c) Produce, or assist Authorized Users, in the production of non-commercial video programming with an emphasis on programming that focuses on issues, events, artistic expression and activities of interest to Northampton citizens and residents for cablecasting on the PEG access channels and distribution as customary for a community media center;
- d) Plan for and oversee the development and operation of Access Facilities within the City of Northampton;
- e) Purchase and/or lease equipment with the funds allocated for such purposes in Section(s) 6.5 and 6.6 of the Comcast Renewal License in accordance with the terms of this Agreement and provide regular maintenance and repair of all equipment;
- f) Provide instruction, training and technical advice in video/television and related production techniques to NCTV members including but not limited to Northampton residents, groups, and institutions, including resident students of all ages and City employees, and shall conduct periodic training programs in the skills necessary to produce quality PEG programming in accordance with the NCTV Rules and Regulations;
- g) Provide technical assistance, pre-production, production, and post-production services as appropriate and necessary to Authorized Users, using NCTV staff and volunteers;
- h) Establish, publicize, and enforce rules, procedures and guidelines for use of the PEG access channels, facilities, equipment and services and provide a copy of such rules as amended to the City;
- i) Actively conduct outreach activities to engage the Northampton community in the use of the PEG Access Facilities and services, and to recruit and sustain members and volunteers;
- j) Conduct fundraising activities to support Public Access and to provide for any operating or capital equipment funding needs that exceed funds available from the Comcast License Agreement;
- k) Provide all reports stipulated herein;
- l) In cooperation with the Northampton Cable Advisory Board ("NCAB") and the Mayor, conduct an annual performance evaluation review and provide processes for continuous evaluation and improvement of services as specified in Section X of this agreement;
- m) Provide equal access to use of equipment, facilities, channels, and services provided for hereunder in a non-discriminatory basis to all members of the community in accordance with NCTV Studio Use Rules and Regulations and in accordance with the Access Facilities Agreement with the School Committee;

- n) Work cooperatively with and provide information regarding PEG Access facilities and operations as necessary to the City, including, but not limited to, the Mayor and the NCAB;
- o) Comply with applicable laws, rules, and regulations in the operation of PEG access facilities and services;
- p) Notify the Issuing Authority of any liability claims or lawsuits filed against NCTV as quickly as practi
- q) cable and in any event no later than five (5) business days after any service of a legal notice, court order, court filing, subpoena or warrant has been issued. In the event NCTV or its counsel believes that such notification is contrary to law, NCTV agrees that NCTV counsel shall consult with Issuing Authority's City Counsel in a timely manner to determine if notification is appropriate under the circumstances;
- r) Other tasks relating to the operation, scheduling and/or management of PEG access channels, facilities and equipment as appropriate and necessary.

V. NCTV AND CITY COORDINATION

5.1 List of Directors

An up-to-date list of the membership of the Board of Directors shall be provided to the Issuing Authority within thirty (30) days after a change in membership of the Board.

5.2 Board Meetings

A designee of the Mayor shall be entitled to attend all NCTV board meetings. NCTV shall give such designee reasonable advance written notice of any such meeting where possible, but at a minimum shall provide to the designee the same notice provided to board or committee members. Nothing herein shall imply that the Mayoral designee shall have the right to vote at any board or committee meeting, nor to participate in any executive session of NCTV duly called by its chair, unless requested to do so. Notice of meetings of the Board of Directors shall be provided to the Mayoral designee and to the NCAB.

VI. EMPLOYMENT AND STAFFING

6.1 Non-discrimination in Employment and Service

NCTV shall adhere to state and federal laws regarding equal opportunity and shall not discriminate against any person or applicant for employment or for the provision of services as subcontractor or in the delivery of services on the basis of race, color, creed, religion, sex, sexual preference, marital status, ancestry, national origin or handicap.

6.2 Personnel Policies and Job Descriptions

NCTV shall have written personnel policies. Each position shall have a clearly written job description.

6.3 Staffing

A) Paid Staff

NCTV shall hire professional staff: including, at a minimum, a full-time executive director, and shall provide an adequate level of staffing during the term of this Agreement to meet its obligations under this Agreement. Independent contractors and volunteers may be engaged to meet programming goals as projected in annual plans and to meet the requirements for government meetings.

B) Volunteers

In keeping with the intent of this Agreement to provide PEG access, NCTV shall actively recruit and train volunteers. Paid staff shall be responsible for the overall supervision of all volunteers. NCTV may adopt policies to authorize certain trained volunteers to supervise other volunteers. NCTV shall develop standards and protocols for volunteers who participate in the production of PEG programming. NCTV shall purchase insurance in coverages and amounts as necessary regarding volunteer activities and such insurance shall cover the acts and omissions of such volunteers with respect to any all risks and injury to persons or property.

VII. RULES AND REGULATIONS

NCTV shall continue to have and adopt as needed reasonable rules and regulations regarding use of the Access Facilities, equipment and services by Authorized Users, training requirements, and the frequency and scheduling of programming and amendments thereto shall be submitted to the Mayor acting as the Issuing Authority and the Northampton Cable Advisory Board for advisory consultation. NCTV shall periodically review, on no less than an annual basis, its Rules and Regulations. Said Rules and Regulations shall be distributed to all employees, volunteers and the Issuing Authority on an annual basis. Employees and volunteers shall comply with such Rules and Regulations at all times. Notwithstanding the foregoing, the Issuing Authority and the School Department reserve ultimate authority over Governmental Access and Educational Access programming content produced by and on behalf of, respectively, the City of Northampton and the School Department.

VIII. PROGRAMMING

8.1 Overview of PEG Programming Responsibilities

The following is an overview of the kinds of elements of Public, Educational, and Governmental programming expected of NCTV and is not intended to be all inclusive.

A) Public Access

Public Access is the provision of a forum for free expression for members of the community on a non-discriminatory basis and shall include but not be limited to:

1. Training in television production and other forms of production that support NCTV and its mission and as permitted for access corporations;
2. Technical support to producers
3. Access to the equipment and facilities needed to produce such programs
4. Access to time slots on channels provided for the cablecasting of programs
5. Maintenance of the program schedule and equipment
6. Promotion of channel activities
7. Public service announcements
8. Oversight of the access facilities

B) Educational Access

Educational Access, intended to provide a wide spectrum of educational programming, shall be defined in its broadest terms and may include but not be limited to:

1. Activities and events of the City of Northampton School Department administration
2. Activities and events of K-12 schools including building student capacity to cover and cablecast activities and events, which shall include, by way of example scholastic affairs, sports, performing arts, sciences, academic competitions, PTO meetings, student-produced programs such as tele-courses, distance learning, and homework help programs
3. Courses or programming from institutions of higher learning
4. Pre-produced educational programs
5. Studio and production and related production, instruction and collaboration for students in the Northampton High School Video Production and Theater Arts programs
6. Being a resource to assist with student trainings and internships

NCTV agrees to work cooperatively with the Issuing Authority and its School Department in the establishment and implementation of goals for Educational Access.

C. Governmental Access

Governmental access is dedicated to the production of governmental programming for the City, its officers, departments, boards, committees and commissions, including but not limited to, the Mayor, the City Council, and the School Committee.

1. Minimum Required Programming: shall include all regularly scheduled City Council, School Committee meetings and Planning Board meetings and assistance in providing committees equipment for rooms at City Council Chambers, the JFK Community Room, the DPW Meeting Room, the City Hall 2nd Floor Meeting Room, and the Senior Center.

A copy of these meetings shall be provided to the Northampton Public Library as the public record for the meetings and NCTV will archive the meetings online

2. Additional Programming: NCTV shall produce and/or cover governmental meetings and programming requested by City entities through the Mayor or designee within reason. NCTV agrees to work cooperatively with the City to determine what additional programming is necessary and expected and shall be responsible for scheduling equipment and paid staffing for the agreed upon programming. NCTV may use trained volunteers or professional staff to produce the desired governmental programming. If NCTV believes it is unable to produce or cover all the requested programming, NCTV shall work with the City to prioritize the list. The City will schedule periodic meetings with NCTV to set direction for the upcoming period. The City will attempt to make all coverage requests by providing seven (7) days' notice of such a request. NCTV shall adequately train and supervise said volunteers. Further, NCTV shall provide not less than the amount of municipal meeting coverage and assistance regarding such coverage than provided under the agreement in effect prior hereto.
3. NCTV shall close caption its coverage of regularly scheduled City Council meetings including not less than two (2) regular City Council meetings per month (subject to the Council holding at least two such regular meetings in any month). Said close captioning shall be live such that the close captioning will be visible to viewers during live cablecasting of regular City Council meetings. NCTV shall use close captioning services and technology at a level customary and necessary for provision of reliable and good quality close captioning services. NCTV shall not be required to expend more than five (5) percent of the annual payments allocated to NCTV in accordance with the terms herein.

8.2 Non-commercial Programming

The PEG Access Facilities shall be used for the production of non-commercial access programming. PEG Access Channels may not be used to cablecast programs for profit or for political or commercial fundraising. NCTV shall under no circumstances sell or cable cast commercial advertising. Non-commercial funding or underwriting acknowledgements may be made provided they are consistent with the requirements of the City's Licenses with its respective cable providers and law. NCTV shall include the following minimum disclaimer

statement regularly during programming:

NCTV and the City of Northampton are not responsible /for the content of programming.

If appropriate, NCTV may place underwriting acknowledgments, in accordance with this section. The City acknowledges that NCTV shall have the right to provide some services for a fee, including, but not limited to, duplication services, production services, rentals, sponsorships, trainings, and other similar services and that such activity shall not be considered commercial programming. The foregoing provision of services for a fee shall be subject to same being consistent with Internal Revenue Service limits and requirements applicable to tax exempt 501c3 nonprofit corporations.

8.3 Programming Decisions

NCTV shall have control of the program content to the extent allowed by applicable federal and state law and shall comply with all federal and state laws and regulations and all City ordinances at all times during the term of this Agreement. NCTV shall keep facilities, services, and channels open to authorized users regardless of their viewpoint, subject to FCC regulations, all other relevant laws, and NCTV published Rules and Regulations. NCTV shall have sole discretion to refuse to broadcast any Public Access material that, in its discretion, it reasonably believes to be obscene or otherwise unlawful under federal, state, and local law. NCTV will otherwise exercise reasonable judgment in programming matters to comply with all Federal, State, and local laws, which discretion may include the scheduling of programming at times consistent with industry practice. The City shall have no responsibility for NCTV programming content and shall have no liability for any decision made by NCTV as to programming content and the City shall have no liability for public access programming.

8.4 Copyright Clearances

Before cablecasting programming, NCTV shall require all producers to warrant, in writing or electronically, that they have obtained all necessary ownership rights, clearances, and licenses, and made all other necessary arrangements with every interested party (whether broadcast stations, networks, sponsors, music licensing organizations, copyright holders, and, without limitation, any and all other persons necessary for lawful transmission of submitted material). NCTV shall keep copies of these agreements for City inspection upon request.

8.5 Bulletin Board

NCTV shall provide a "bulletin board" on access channels for the purposes of announcing programming and cable television access services, making public service announcements and allowing the City departments or the schools to make certain announcements, or for such other purposes as are reasonably necessary or appropriate. NCTV shall take care to ensure that the announcements on the bulletin board are updated regularly and appropriately so that it functions efficiently and that the information provided to the public is accurate and timely and adheres to applicable federal and state laws and regulations. NCTV shall cooperate with City and School Department officials to accommodate their need for prompt access to the bulletin board for emergency public safety announcements, such as school and street closings.

8.6 Programming Promotion

NCTV shall publish its programming schedule in a manner that it is accessible to the public and regularly updated, including but not limited to its web site,

IX. EQUIPMENT AND FACILITIES

9.1 Equipment

A. Ownership and Record of Purchase

NCTV shall own, operate, repair and replace any and all PEG Access equipment and furnishings purchased with funding provided under Section 6 of the Comcast Renewal License, and such equipment and furnishings shall be for use by NCTV for the benefit of the general public and for promoting and stimulating access programming. NCTV shall keep on file a copy of each invoice describing equipment or furniture purchased and shall execute any documents requested by the City to verify ownership and status of equipment and furnishings. Notwithstanding the foregoing, NCTV shall give the City twenty (20) business days advance written notice of its intent to purchase any equipment in excess of \$30,000 with funds provided under Section 6 of the Comcast Renewal License or with City funds. The City shall not unreasonably deny the purchase of such equipment if it forwards the purposes under this agreement and does not jeopardize the financial stability of the organization. If NCTV does not receive written objection from the City regarding such intended purchase, NCTV may purchase such item, provided that such item is promptly listed on the equipment list as required in Section 9.2. The Mayor or designee may verbally authorize emergency purchases to replace failed equipment that is essential to the Access Facility operations provided it is followed by written documentation to the City.

B. Equipment Owned by NCTV and Equipment List

All equipment owned by NCTV shall be catalogued identifying the equipment and specifying if it was purchased with franchise fee funds, City funds, or other funds. All equipment shall be primarily housed at NCTV studio facilities. Equipment allocation and use shall be in accordance with NCTV Rules and Regulations. Such rules and regulations shall address the handling, care, and return of equipment. A copy of the equipment list shall be provided to the Mayor annually.

C. Equipment Purchased by City of Northampton

NCTV shall own, operate, repair and replace any and all PEG Access equipment and furnishings purchased with funding provided by the Licensee or City of Northampton and located in City Council Chambers and at JFK Middle School for the purposes of broadcasting City and School meetings. Such equipment shall be exclusively for use in broadcasting City meetings in City Council Chambers and in the JFK Middle School and shall not be removed from City property without written authorization of the Mayor or designee. NCTV may propose an alternative plan for equipment coverage of City meetings for consideration by the City, but shall not implement such plan unless and until approved by the Mayor.

9.2 Sale of Equipment and Transfer of Equipment to City

No equipment or furnishings transferred to NCTV or purchased with funds provided under Section 6 of the Comcast Renewal License or with City funds shall be sold, otherwise transferred, or discarded without the prior written approval of the Mayor or designee within its expected useful life of the equipment or furnishings or so long as the equipment or furnishings are in a usable state of operation. NCTV shall keep and provide the City on an annual basis with an inventory of all equipment and furnishings in its possession and its cost. All equipment and furnishings transferred to NCTV or purchased with funds provided under Section 6 of the Comcast Renewal License or with City funds shall revert to the City of Northampton in the event that NCTV ceases to exist or if this agreement is terminated. Such equipment and furnishings will be held in trust by the City for similar charitable uses.

9.3 Equipment Maintenance

NCTV shall be responsible for regular repair and maintenance of all equipment during the term of this agreement. NCTV shall reasonably maintain, repair or replace said equipment to ensure such equipment remains in working order and to ensure that the access facilities are adequately equipped.

9.4 Community Media Facility

NCTV shall maintain appropriate space for the purposes of operating a community media facility, potentially including but not limited to staff offices, and conference, editing and training rooms. It is agreed that the access facilities shall be located at the Northampton High School in accordance with a Northampton Access Facilities Agreement subject to the parties (and/or School Department as applicable) executing a mutually acceptable access facilities agreement or lease subject to and adopted in accordance with applicable local and state law regarding school facility use and/or leasing.

9.5 Relocation, Reconstruction or New Construction

Should there be any plan to reconstruct the PEG access studio at Northampton High School, or to construct a new facility, or to relocate the access facilities to another facility, NCTV shall submit to the Mayor or designee its master plan for said relocation, construction or reconstruction to include a detailed description of the plan and budget for such relocation, construction or reconstruction and for the purchase of equipment and furnishings. The Mayor or Mayor's designee shall notify NCTV of its approval or disapproval of the master plan within thirty (30) days of its receipt thereof. No part of the funds provided to NCTV under the Comcast License Agreement or funds provided by the City shall be used for any such relocation, construction or reconstruction prior to the City's approval of the master plan. Notwithstanding the foregoing, NCTV may on its own construct or operate a satellite facility without such formal City approval process subject to such satellite facility being in addition to NCTV's continued operation of the existing PEG access studio, and subject to providing the Mayor and Cable Advisory Board not less than thirty (30) day notice of its intent to construct or operate such satellite facility, with notice including details of the proposed facility; and any such satellite facility operation being subject to advisory consultation with the Mayor and the designated Cable Advisory Board.

9.6 Competitive Bidding

NCTV shall use best business practices when purchasing supplies, equipment or furnishings and use a competitive bidding process when undertaking any major construction work.

X. PERFORMANCE EVALUATION

Each year NCTV shall provide the public and the City, acting through the Mayor and the Northampton Cable Advisory Board (NCAB), with the opportunity to review NCTV's past performance and proposed goals. This evaluation may occur in coordination with the performance evaluation of Comcast under Section 10.2 of the Comcast Renewal License. NCTV shall submit an annual report as described in Section XI and make a presentation to the NCAB on its activities during the previous year and its proposed goals for the coming year. NCTV shall provide additional information on the operational, programmatic, and financial status of NCTV as requested by the Mayor or the NCAB. The NCAB will solicit public comment on the performance of NCTV at the public meeting. The public will be invited to attend said presentation and be notified by: (1) a full month of messages on all access channels (2) a direct or electronic mailing to all NCTV members and producers, as well as the Issuing Authority and the Chair of the Cable Advisory Board, community-based non-profit organizations, and other interested parties as may be determined by NCTV or the City (3) and with posting on City and NCTV website (4) posting in City Hall and at the NCTV access facility.

XI. REPORTS

Throughout the term of this Agreement, NCTV shall provide the following reports in a timely fashion:

11.1 Video and Audio Signal Quality Reports

Whenever a cable TV customer contacts NCTV about poor or irregular video or audio signal quality, or when NCTV staff or volunteers observe such problems, NCTV shall report said problem to the responsible cable operator and to the NCAB chairperson or his/her designated representative. NCTV shall keep a log of reported problems and of the resolution or failure to resolve. Any unresolved issues regarding NCTV video/audio quality or the cable operator's signal quality shall be immediately reported in writing (by either direct or electronic mail) to the Northampton Cable Advisory Board and to the Mayor's Office.

11.2 Board of Directors Minutes

Minutes from NCTV Board of Directors meetings shall be provided to the Mayor and to the NCAB on a monthly basis (by either direct or electronic mail).

11.3 Annual Report

NCTV shall send a copy of its Annual Report to the Mayor or designee within fourteen (14) days of its filing with the Massachusetts Attorney General's Office. If not included in its Annual Report, NCTV shall prepare on an annual basis a comprehensive report covering the past year of activities and its proposed plan and budget for the upcoming year. The Report shall be provided to the Mayor and to NCAB. Said report shall include:

A. Programming and Membership:

- a. membership growth and activity
- b. summary of equipment use
- c. list of projects completed
- d. summary of PEG programming and activities including, if requested by the Issuing Authority a log of the PEG programming throughout the year.

B. Fiscal:

- a. comprehensive income and expense report including but not limited to operating and capital income/expenses, capital and cash reserves,
- b. list of all equipment purchased including type and cost
- c. assets acquired and disposed of
- d. fundraising activities
- e. Financial review as provided by a CPA with an independent audit report by a certified public accountant not less than every three years; and an independent audit report if and as required by law or regulation.

C. Governance and Customer Service:

- a. copy of most recent Rules and Regulations
- b. report of complaints and public comments received
- c. summary of status and changes in staffing and volunteers

11.4 Annual Plan and Budget

NCTV shall prepare an Annual Plan and Budget outlining activities and programs planned for the following fiscal year. Such plan shall include: (1) A plan for programming, services, facilities use, staffing, and projects. The goal is to progressively increase community engagement and operation and use of NCTV facilities over time. (2) A detailed operating and capital equipment and facilities budget. The Annual Plan and Budget shall be submitted to the Mayor and NCAB for review with the annual report

11.5 Records

NCTV shall maintain all necessary books and records, in accordance with generally accepted accounting principles. Upon reasonable request from the Mayor or designee, NCTV shall, at any time during normal business hours, make available on its premises and provide upon request within five business days, copies of all of its records with respect to all matters covered by this Agreement. Such request shall be delivered, in writing, to the Facility, and to the attention of NCTV

s Executive Director. NCTV shall require the Executive Director to respond within five business days and within such time make available all such requested records for inspection and copying.

XII. ACCESS FUNDING

12.1 Quarterly Payments

In exchange for fulfilling its obligations under this Agreement, NCTV will be designated to receive quarterly payments of a percentage of Gross Annual Revenues (as this term is defined in the franchise license) provided for under Section 6.4 of the Comcast Renewal License. The City and NCTV agree that in the event the City issues any additional cable television license(s) during the remaining term of this Agreement that provides for additional PEG Access funding, NCTV may request from the City the PEG revenues derived under the new license(s).

12.2 Capital Fund

NCTV shall have access to the cable-related capital funding ("Capital Fund") provided under Section 6.5 of the Comcast Renewal License to equip and furnish the access facilities described above. No part of the Capital Fund shall be used for any other purposes. A list of all equipment and capital purchases made with these funds shall be added to the equipment list as required in Section 9.2 of this agreement.

12.2.1 Any City obligations to allocate funding to NCTV under this Agreement or the Renewal License are subject to and wholly contingent upon the cable licensee(s) payment of same in accordance with the City's Comcast cable Renewal License(s); and are subject to requirements of the Commonwealth of Massachusetts or its agencies and subdivisions, if any, with respect to appropriation of license funds if applicable or declared by the Commonwealth to be applicable with respect to appropriation or expenditure of license funds. If and to the extent the cable licensee(s) does not make such payments, or in the event such licensee(s) terminates and/or abandons its license(s) resulting in nonpayment thereunder, then the City shall have no liability for such funding as said funding by Town is wholly contingent upon receipt or payment of same by Licensee(s).

12.3 Other Funds

NCTV may, during the course of this Agreement, receive supplemental funds from other sources. NCTV may otherwise seek independent resources through any lawful means consistent with section 501 (c)(3) of the Internal Revenue Code, as it may be amended from time to time.

XIII. AVAILABILITY OF PEG ACCESS CHANNELS

NCTV shall have the sole responsibility for managing, scheduling, operating, and programming the Public Access Channels available to the City under the Comcast License Agreement or under other such cable license agreements that the City may enter into during the term of this agreement subject to the terms herein. Under Section 6.3 of the Comcast Renewal License, Comcast shall provide a minimum of three channels on the cable subscriber system for PEG

access purposes. The Issuing Authority may in consultation with NCTV designate the purposes for each PEG Access channel subject to providing not less than one full-time channel for public access purposes. It is the understanding of the Parties that Comcast will ensure that the Access channels will be included in the operator's basic tier of cable service. Notwithstanding NCTV's responsibility for managing and operating the Educational and Governmental Access Channels, the Parties acknowledge that the Issuing Authority reserves and has the right to exercise ultimate control over what programming may or may not be cablecast as Government or Educational Access Programming.

XIV. INDEMNIFICATION AND LIABILITY

To the extent covered by insurance:

A.) NCTV shall indemnify and hold harmless the City, its officers, agents, employees, NCTV members, representatives and volunteers of and from any and all causes of actions, claims, demands, damages, costs, attorney's fees, losses of service, expenses and compensation on account of or in any way arising from, directly or indirectly, personal injuries or property damage resulting from or claimed to result from any act or omission of NCTV, its officers, employees, volunteers, agents, representatives and invitees, related to NCTV's activities, including, but not limited to, construction of access facilities, operations, and its provision of cable television access services pursuant to this Agreement.

B.) Under no circumstances shall the City of Northampton be responsible for the debt of the NCTV Corporation.

XV. INSURANCE

15.1 Coverage For Term of Agreement

NCTV shall, at all times during the term of this Agreement, maintain professional liability insurance comparable to broadcast liability insurance and comprehensive public liability insurance, which shall include the broad form comprehensive general liability endorsement covering NCTV's activities, including, but not limited to, construction of access facilities, operations and its provision of cable access television services pursuant to this Agreement. Such policies shall be written by a responsible company qualified to do business in Massachusetts and in good standing therein and shall provide the minimum coverage as set forth in section 15.4, below. The policies provided for herein shall specifically cover the indemnity provisions in Section 14 of this Agreement.

NCTV shall be considered in default of this Agreement if any of the required insurance coverages expires, lapses or is otherwise not valid.

15.2 City as Co-Insured or Additional Insured

The City shall be named as a co-insured or additional insured on all insurance coverages. All insurance certificates shall provide that the policies shall not be cancelled without at least thirty (30) days written notice to the City.

15.3 Notification of Coverage

NCTV shall deposit with the Issuing Authority copies of the policies and certificates of insurance naming the City as an additional insured prior to opening of the NCTV access facilities in the Northampton High School. NCTV shall deposit copies of successor policies and certificates of insurance with the City on an annual basis within thirty (30) days of renewal of policies. NCTV shall notify the City in writing at least thirty (30) days prior to the expiration or cancellation of any such policies.

15.4 Insurance Coverage

A. Comprehensive Liability Insurance:

NCTV shall obtain comprehensive liability coverage including protective, completed operations and broad form contractual liability, property damage and personal injury coverage, and comprehensive automobile liability including owned, hired, and non-owned automobile coverage. The limits for such coverage shall be: (1) bodily injury including death, \$1,000,000 for each person, occurrence and \$2,000,000 aggregate; (2) property damage, \$1,000,000 for each person, occurrence and \$2,000,000 aggregate.

B. Equipment Insurance:

Replacement cost insurance coverage shall be maintained on all equipment and facilities including fixtures, funded in whole or in part under this Agreement. Insurance shall include, at a minimum, insurance against loss or damage, theft, fire or natural catastrophe.

C. Workers' Compensation Insurance:

Full Workers' Compensation Insurance and Employer's Liability shall be maintained with limits as required by Massachusetts law.

D. Cablecaster Errors and Omission Insurance:

Insurance shall be maintained to cover the content of productions which are cable cast on the access channels in, at minimum, the following areas; libel and slander; copyright or trademark infringement; infliction of emotional distress; invasion of privacy; plagiarism; misuse of musical or literary materials. This policy shall not be required to cover individual access producers.

XVI. TERMINATION OR DISSOLUTION

16.1 Termination

A.) The City shall have the right upon sixty (60) days written notice to NCTV to terminate this Agreement for:

- (1) Breach of any provision of this Agreement by NCTV;
- (2) Malfeasance, misfeasance, or misappropriation of public funds;
- (3) Failure to obtain or loss of NCTV's federal tax exemption under Section 501(c) (3) of the Internal Revenue Code;

NCTV may avoid termination by completely curing any such breach within thirty (30) days of notification or within a time period agreed to by the City and NCTV. If cure is impossible within such time period, NCTV may avoid termination provided it has promptly and diligently pursued a course of action within the thirty (30) days following notification to cure any breach, and thereafter prosecutes such cure within continued diligence to completion. But in case of an irremediable breach caused by NCTV, the Agreement shall be terminated at the end of the notice period. No cure period provide herein shall apply to the lapse of insurance coverage as provide in Article XV, above. NCTV and the City shall reserve the right to arbitration in regards to a breach of contract.

B.) The City shall have the right upon ninety (90) days written notice to NCTV to terminate this Agreement in the event of the loss of the City's and NCTV's right under the Renewal License to receive any portion of Comcast Revenues, pursuant to any applicable federal, state or local law or regulation. In the event of such loss of revenues, the City and NCTV shall first evaluate the financial status of the organization and its ability to supplant franchise fee revenues with other funds to meet its obligations under this agreement. If NCTV is not 'able to raise sufficient funds to meet its obligations under this agreement, the City may terminate the agreement.

C.) Upon termination or expiration (without renewal) of this Agreement, NCTV shall immediately transfer to the City all equipment, real property, fixtures, contracts, leases, deposit accounts, or other assets received by or purchased by NCTV with cable franchise revenues or City funds received pursuant to this Agreement, or other funds specifically raised to support the PEG obligations under this Agreement. Any NCTV property subject to a security interest held by the City shall also be transferred to the City. NCTV shall execute all appropriate deeds, bills of sale, and other instruments necessary to transfer title.

16.2 Dissolution of the Corporation

A.) In the event of the liquidation or dissolution of NCTV as a corporation, whether voluntary or involuntary, no Director, officer or member shall be entitled to any distribution or division of its remaining property or its proceeds. All assets, money, property, equipment received by the Corporation acquired with City or cable franchise revenues or funds specifically raised to support the PEG obligations under this Agreement, shall, in accordance with the cable license, revert to the City of Northampton to be held in trust for organization or organizations which are

organized and operated exclusively for charitable purposes and which shall at that time qualify as an exempt organization or organizations under Section 501(c)(3) of the Internal Revenue Code of 1954, or the corresponding provision of any future United States Internal Revenue Law. Under no circumstances shall the City of Northampton be responsible for the debt of the Corporation.

B.) In the event that NCTV is dissolved prior to the expiration of this Agreement, or the City either terminates or does not renew this Agreement with NCTV, the City shall have the right to designate another entity to provide Public Access Programming in the City. Any such successor Public Access organization shall then assume the benefits and obligations contained herein and in all relevant provisions of the Renewal License.

XVII. MISCELLANEOUS PROVISIONS

17.1 Live Cable Cast of City Meetings

For live coverage of public meetings which are subject to the open meeting law, the board, committee or commission holding such meeting shall have the right to restrict such live cable cast in a manner which complies with its own rules but only to the extent allowed by law. Nothing contained in this subsection is intended to interfere with the rights of any person to videotape a governmental meeting pursuant to the open meeting law.

17.2 Professional Standards

NCTV shall at all times operate according to the highest professional standards applicable to public access corporations.

17.3 Notices

Any notice provided for in this Agreement to be delivered, given or made shall be in writing except as otherwise explicitly provided herein and shall be deemed given when delivered by hand, deposited with an overnight courier service, or mailed by registered or certified mail, postage prepaid, return receipt requested and addressed as follows.

Each party may change the address to which notices shall be sent by filing written notice thereof with the other party.

If to the

City:

Mayor

City of Northampton

210 Main Street Rm 12

Northampton MA 01060-3199

and

Northampton City Solicitor

City of Northampton

210 Main Street

Northampton MA 01060-3199

If to NCTV: Executive Director
Northampton Community Television, Inc.
380 Elm Street
Northampton, MA 01060

17.4 Applicable Law

This Agreement shall be construed in accordance with the laws of the Commonwealth of Massachusetts.

17.5 Severability

If any section, paragraph, clause or provision of this Agreement shall be finally adjudicated by a court of competent jurisdiction to be invalid, the remainder of this Agreement shall be unaffected by such adjudication and all of the remaining provisions of this Agreement shall remain in full force and effect as though such section, paragraph, clause or provision, or any part thereof so adjudicated to be invalid, had not been included herein, unless such remaining provisions, standing alone, are incomplete and incapable of being executed in accordance with the intent of the parties to this Agreement.

17.6 Headings

The section headings in this Agreement are for convenience and reference only and in no way define or limit the scope or content of this Agreement or in any way affect its provisions.

17.7 Entire and Complete Agreement

This Agreement constitutes the entire and complete Agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior Agreements or understandings. It can be amended only by a written Agreement between the parties.

17.8 Observation of Laws and Regulations

NCTV shall comply at all times in the performance of this Agreement with all applicable laws and regulations of the United States, the Commonwealth of Massachusetts and the Charter and Ordinances of the City of Northampton.

17.9 Mayoral Designee

At any time the Mayor may appoint a designee or designees to perform the various functions provided for under this Agreement. The Mayor may appoint different designees for different purposes hereunder and shall always have the right to retain the function rather than to designate another to perform it on the Mayor's behalf.

17.10 Dispute Resolution

A. Informal Dispute Resolution: Each party agrees to cooperate with the other party to carry out the provisions of this Agreement. The parties agree to informally discuss and resolve any disputes arising out of the day-to-day implementation of this Agreement.

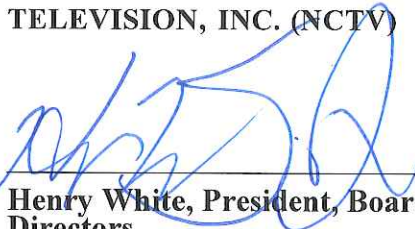
B. Arbitration: In the event that Informal Dispute Resolution is unsuccessful, the parties agree to submit such dispute to arbitration. Within five business days after the receipt of completion of mediation, the parties shall apply to the Boston Office of the American Arbitration Association ("AAA") for the appointment of an arbitrator. The arbitration shall be conducted in accordance with the commercial arbitration rules of the AAA. The arbitrator shall be charged to issue a written decision on or before the end of the Arbitration Period. The cost of arbitration (exclusive of each party's witness and attorney's fees, which shall be paid by such party) shall be borne equally by the parties. The decision of the arbitrator shall be binding on the parties.

17.11 Assignment

NCTV shall have no right whatsoever to assign this Agreement or any of its rights, duties or obligations hereunder without the advance, express, written consent of the City. Any such assignment shall be effective only upon the proposed assignee signing a written agreement with the City assuming the duties and obligations contained herein.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the first date written above.

**NORTHAMPTON COMMUNITY
TELEVISION, INC. (NCTV)**


**Henry White, President, Board of
Directors**

Date: 4-6-16

**CITY OF NORTHAMPTON
BY THE CABLE TELEVISION LICENSE
ISSUING AUTHORITY**



Mayor David J. Narkewicz

Date: 4-6-16

EXHIBITS

Exhibit A - Comcast Renewal License - See Attached

CERTIFICATE OF AUTHORITY - CORPORATE

I hereby certify that I am the Clerk/Secretary of Northampton Community Television, Inc.; and that Henry White is the duly elected President and Chair of said corporation; and that on _____* at a duly authorized meeting of the Board of Directors of said corporation, at which all the Directors were present or waived notice, it was voted that Henry White, President and Chair of this corporation be and hereby is authorized to execute contracts and bonds in the name and on behalf of said corporation, and affix its Corporate Seal thereto, and such execution of any contract of obligation in this corporation's name on its behalf, with or without the Corporate Seal, shall be valid and binding upon this corporation; and that the above vote has not been amended or rescinded and remains in full force and effect as of the date set forth below.

ATTEST:

/(Signature of Clerk/Secretary)

Name: _____, Clerk/Secretary

DATE:

! /
(Insert date certificate signed by Clerk or Secretary)**

* This date must be *on or before* the date that the corporate officer signs the contract.

** This date must be *on or after* the date that the corporate officer signs the contract.

Tax Compliance Certification

Pursuant to M.G.L. Ch. 62C, sec. 49A, I certify under the penalties of perjury that Northampton Community Television, Inc. has, to my best knowledge and belief, complied with the laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

Henry White, President, Northampton
Community Television, Inc.

Federal Identification Number: 20-5344092

Corporation Certification

AFFIDAVIT OF COMPLIANCE

The Commonwealth of Massachusetts

NON-PROFIT CORPORATION

I, Henry White, President of Northampton Community Television, Inc., whose principal office is located at 380 Elm Street, Northampton, MA, do hereby certify that the above named Corporation has filed with the State Secretary all certificates and annual reports required by Massachusetts General Laws. _____

SIGNED UNDER THE PENALTIES OF PERJURY THIS day of _____
2016./

■■■

/

Signature of responsible Corporate Officer:

Henry White, President, NCTV